

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

**FILED**

AUG 23 2018

Clerk, U S District Court  
District Of Montana  
Billings

TAMMY WILHITE,

Plaintiff,

vs.

AWE KUALAWAACHE CARE  
CENTER, PAUL LITTLELIGHT,  
LANA THREE IRONS, HENRY  
PRETTY ON TOP, SHANNON  
BRADLEY and CARLA  
CATOLSTER,

Defendants.

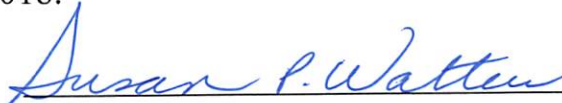
CV 18-80-BLG-SPW

ORDER

Before the Court is the Defendants' motion to vacate the scheduling conference set for August 24, 2018. (Doc. 14). The Defendants argue discovery is premature until the Court rules on the Defendants' motion to dismiss for lack of subject matter jurisdiction. The Defendants additionally argue they "intend" to file an additional motion to dismiss based on sovereign immunity. In her response brief, Plaintiff argues the case should not be delayed due to pretrial motions. In reply, the Defendants assert they are protected by sovereign immunity and the Court should vacate the scheduling conference "pending resolution of the Defendants' Motion to Dismiss based on tribal sovereign immunity."

However, the Defendants misstate the record. The Defendants have not filed a motion to dismiss based on sovereign immunity. And because the Court already denied the motion to dismiss based on subject matter jurisdiction, there are no pending pretrial motions which weigh in favor of granting the motion to vacate. The motion to vacate (Doc. 14) is therefore denied.

DATED this 23<sup>rd</sup> day of August, 2018.

  
SUSAN P. WATTERS  
United States District Judge